HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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Writ Petition Nos. 13600 and 13602 of 2005

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Dated: 09th December, 2005

W.P.No.13600 of 2005:

Between:

1. Mohd. Ghouse S/o. late Shaik Janimiya,

R/o.Hayathnagar village and Mandal, Ranga Reddy

District and others.

..... PETITIONERS

AND

1. The District Collector, Ranga Reddy District at

Lakdikapoor, Hyderabad and others.

.....RESPONDENTS

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W.P.No.13602 of 2005:

Between:

1. Mohd. Ghouse S/o. late Shaik Janimiya,

R/o.Hayathnagar village and Mandal, Ranga Reddy

District and others.

..... PETITIONERS

AND

1. The District Collector, Ranga Reddy District at

Lakdikapoor, Hyderabad and others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition Nos.13600 and 13602 of 2005

COMMON ORDER:

Since the order impugned in both the writ petitions is one and the same, they are being heard together and disposed of by this common order.

2. Challenge has been made in these two writ petitions to the order dated 29.03.2004 passed by the Joint Collector, Ranga Reddy District-2nd respondent on an appeal filed under Section 90 of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short, 'the Act'), against the Order dated 03.01.2004 passed by the Mandal Revenue Officer, Hayathnagar in File No.B/508/96.

3. This case has a chequered career. One Mahaboob Bee was the pattadar of the land and one B.Ramaiah was the tenant. The original pattadar-Mahaboob Bee initiated proceedings against the tenant-B.Ramaiah for eviction in the year 1962 by filing a suit being O.S.No.5 of 1962 on the file of the Munsif Magistrate, East and North, Hyderabad District. The said suit ended in decree. E.P.No.23 of 1964 on the file of the Munsif Magistrate, East and North, Hyderabad District, came to be filed and pending E.P., both parties entered into compromise and accordingly they filed a memo on 05.12.1964. Certified copy of the said memo reads as follows:

"In the Court of the Munsif Magistrate, East, Hyderabad.

E.P.No. of 1964

in

O.S.No.5 of 1962

M E M O

Between:

Mahaboob Bee and others. D.H./Plaintiffs.

And

Baddam Ramiah J.D./Defendant.

Claim: Execution Proceedings.

Sir,

The Decree Holder/plaintiffs submit as follows:-

1.That the parties approached to compromise.

2.That the plaintiffs have transferred all their rights of ownership in favour of Judgment Debtor.

3.That the Judgment Debtor has submitted an application to issue sale certificate in his favour regarding suit lands, for which the decree holders have no objection, as such.

4.That the decree holders do not want to execute the decree.

Therefore, it is prayed that the execution proceedings be closed in satisfaction of the decree."

The litigation with regard to the land in question did not rest there. The petitioners claiming to be the Legal Representatives of said Mahaboob Bee approached the Mandal Revenue Officer, Hayathnagar, Ranga Reddy District, by making an application under Section 28(2) of the Act complaining that the tenants are not paying the rents and thereby rendered themselves liable to be evicted. The Mandal Revenue Officer passed orders on the said application and the orders passed by him came to be challenged before the Joint Collector, Ranga Reddy District, and ultimately the Joint Collector remanded the matter to the original authority i.e. Mandal Revenue Officer. On remand, the Mandal

Revenue Officer passed orders on 03.01.2004. The relevant portion of the order passed by the Mandal Revenue Officer reads as follows:

> "Therefore, I hold that, the tenancy held by Late Ramaiah and his legal heirs is hereby terminated, and the possession of lands bearing Sy.Nos.3, 4 and 8, admeasuring Ac.5.08 gts., of Khalsa Hayathnagar village is restored back to the petitioners. Accordingly, the Additional Mandal Revenue Inspector and Mandal Surveyor of this Office are hereby directed to handover the physical possession of the land in Sy.Nos.3, 4 and 8, admeasuring Ac.5.08 gts. of Khalsa Hayathnagar village, Hayathnagar Mandal, Ranga Reddy District to the petitioners under panchanama and submit the compliance report. Further, the Part Time Assistant of Khalsa Hayathnagar village is also directed to incorporate the necessary changes in Revenue Records."

The order passed by the Mandal Revenue Officer, Hayathnagar, came to be challenged by filing an appeal before the Joint Collector, Ranga Reddy District. The Joint Collector by order dated 29.03.2004 set aside the order of the Mandal Revenue Officer and directed the parties to approach the competent Civil Court for adjudication of their rights. The relevant portion of the order passed by the Joint Collector reads as follows:

> "On perusal of the orders passed by my predecessor in case No.B4/2906/91, dated 21.02.95 it is found that the lower court did not enquire as to whether the appellant is entitle for any relief in case of ordinary tenant. Therefore, the order of Mandal Revenue Officer, Hayathnagar, No.B/828/90, dated 01.09.90 is set aside and the matter is remanded to the Mandal Revenue Officer, Hayathnagar for denovo enquiry afresh. He is requested to dispose of the case in accordance with law after giving opportunity to both the parties.
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> On perusal of the lower court record it is found that the Mandal Revenue Officer has not discussed about the recognisation of Tenancy on the suit lands under the provisions of A.P. (T.A.) Tenancy and Agricultural Lands Act, 1950. On perusal of the material papers produced by the parties it is found that they have failed to establish as recognized tenants U/Ss.34 & 37 of A.P. (T.A.) Tenancy and Agricultural Lands Act, 1950. On perusal of the material papers filed by the parties it is found that the land is covered with buildings, as such without going into further merits of the case the court come to conclusion that the revenue court are having limited jurisdiction, whereas the Mandal Revenue Officer has exceeded his jurisdiction in respect of persons who have not been recognized as tenants under the provisions of A.P. (T.A.) Tenancy and Agricultural Lands Act, 1960 as discussed in earlier paras. Therefore, the orders passed by the Mandal Revenue Officer, Hayathnagar in Case No.B/508/96, dated 03.01.2004 is set aside and subsequent action taken in the above impugned order is also set aside. The appellants and respondents in both the cases

are advised to approach the competent Civil Court if they have any grievances."

Hence, these two writ petitions.

4. Counter affidavits have been filed by the unofficial respondents in both the writ petitions.

5. Learned counsel appearing for the petitioners submits that the unofficial respondents *viz*. R.3 to R.7 in W.P.No.13600 of 2005 and R.3 to R.5 in W.P.No.13602 of 2005 have not paid any rents and therefore, the petitioners are justified in moving an application before the Mandal Revenue Officer, Hayathnagar, under Section 28(2) of the Act. Since the unofficial respondents have no rights over the property and as they have not paid any rents, the Mandal Revenue Officer, Hayathnagar, is justified in passing the order of eviction. The learned counsel further submits that the Joint Collector, Ranga Reddy District, without any valid reasons interfered with the well reasoned order passed by the Mandal Revenue Officer, Hayathnagar, and thus, the order impugned in both the writ petitions is liable to be set aside.

6. Learned counsel appearing for the unofficial respondents submits that the proceedings initiated by the original pattadar-Mahaboob Bee ended in compromise wherein the original pattadar has given up her rights and therefore, the petitioners claiming to be her legal representatives cannot be permitted to move an application under Section 28(2) of the Act seeking the selfsame relief which was sought for in O.S.No.5 of 1962.

7. A fact remains that the original pattadar-Mahaboob Bee initiated proceedings against tenant-B.Ramaiah for eviction and the said proceedings ended in compromise. Compromise memo has been extracted in the afore said paras of this Order. Copies of Pahani Patrikas for the period from 1954-55 to 1998-99 have been placed on record by the respondents. They clearly indicate that the said lands are no more agricultural lands and in which case the provisions of

the Act cannot be made applicable. The Joint Collector, Ranga Reddy District, keeping in view all the facts and circumstances of the case, directed both the parties to approach the competent Civil Court to establish their respective rights. In that view of the matter, I do not see any flaw in the order passed by the Joint Collector, Ranga Reddy District.

8. Accordingly, both the writ petitions are dismissed. No costs.

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B.SESHASAYANA REDDY, J.

Date: 09th December, 2005.

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